IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4643 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RASIKLAL S MEHTA

Versus

COMPT AUTHORITY &DY COLLECTOR

Appearance:

1. Special Civil Application No. 4643 of 1988

MR SURESH M SHAH for Petitioner No. 1

MR MEHUL S SHAH for Petitioner No. 1

Mr. Sen, AGP for Respondent No. 1

RULE SERVED for Respondent No. 2

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 15/10/2001

ORAL JUDGEMENT

Heard Mr.Mehul S. Shah, learned advocate

appearing on behalf of the petitioner and Mr.S.P.Sen, learned AGP appearing on behalf of the respondents.

In the present petition, the petitioner has challenged the order dated 28.8.84 passed by the competent authority under the ULC Act. The petitioner is also challenging the order dated 15.6.88 passed by the Appellate Tribunal whereby the tribunal has rejected the appeal preferred by the petitioner against the order passed by the competent authority and has rejected the interim order dated 6th November, 1984.

In this petition, initially, by order dated 19.8.1988, this court has issued notice and has granted ad-interim stay as to possession on a condition that the petitioner does not put up any construction on the lands in question or does not alienate the same or does not change the user thereof. Thereafter, by order dated 6th October, 1990, rule was issued in this petition and interim relief granted earlier was directed to continue on the same terms and conditions.

Learned advocate Mr. Mehul S. Shah appearing for the petitioner has submitted that in view of the interim orders granted by the tribunal on 6th November, 1984 which has continued upto 5th June, 1988 and thereafter ad interim orders passed by this Court on 19.8.1988 and since during the period from 6th June, 1988 till 19th August, 1988, the respondents have not taken over the possession of the land in question, the same has remained with the petitioner. He has submitted that though the respondents have filed the affidavit in reply on 21.9.1988, no averments have been made so far in relation to taking over the possession of the land in question by the respondents. It is, thus, his submission that the petitioner is in possession of the land in question initially passed by the tribunal and then by this court by order dated 19.8.1988.

Learned Assistant Government Pleader Mr. S.P. Sen appearing for the respondent authorities has submitted that he has received letter dated 21st September, 2001 from the additional Collector, ULC Branch, Rajkot addressed to the Government Pleader of this Court. He has produced the said letter before this Court which is ordered to be taken on record. In the said letter, it has been specifically mentioned by the Additional collector, ULC Branch, Rajkot that the possession of the land in question has not been taken over by the Government or by any authority as the notification under section 10(5) of the ULC Act, 1976 has

not proceeded further either by the State Government or by the competent authority.

However, in view of the fact that the dispute involved in this petition is directly covered under the provisions of the Urban Land [Ceiling and Regulation] Repeal Act, 1999 [Act No.15 of 1999] repealing the Urban Land [Ceiling and Regulation] Act, which is also adopted by the State Government by passing Resolution dated 30th March, 1999, therefore, this petition had abated and consequently, the impugned orders at Annexure-A & C dated 28th August, 1984 and 15th June, 1988 passed against the petitioner also stand abated. Rule is made absolute accordingly.

Date : 15-10-2001 [H.K.Rathod, J.]
Vyas